

# **EXHIBIT U**

Tal Givoly 30(b)(6)

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New York, NY

February 10, 2011

1 CONFIDENTIAL

2 IN THE UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF VIRGINIA

4

5 -----

6 AMDOCS (ISRAEL) LIMITED,

7 Plaintiff,

8 v. Civil Action

9 OPENET TELECOM, INC., a Delaware No. 110-CV-910  
10 Corporation, and OPENET TELECOM,  
11 LTD., an Irish Corporation,

12 Defendants.

13 -----

14 CONFIDENTIAL

15 30 (b) (6) VIDEOTAPED DEPOSITION OF TAL GIVOLY

16 New York, New York

17 Thursday, February 10, 2011

18

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22 Reported by:

23 Amy A. Rivera, CSR, RPR, CLR

24 JOB NO. 27867

25

**CERTIFIED COPY**

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9:07 a.m.

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5 30(b)(6) Videotaped deposition of TAL GIVOLY  
6 held at the offices of Wilmer Hale, 399  
7 Park Avenue, New York, New York before  
8 Amy A. Rivera, Certified Shorthand  
9 Reporter, Registered Professional  
10 Reporter, Certified LiveNote Reporter, and  
11 a Notary Public of the State of New York.

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1 A P P E A R A N C E S:

2 WILMER HALE

3 Attorneys for Plaintiff

4 399 Park Avenue

5 New York, New York 10022

6 (212) 937-7201

7 BY: NELS T. LIPPERT, ESQ.

8

9

10 WILEY REIN, LLP

11 Attorneys for Defendants

12 1776 K Street NW

13 Washington, D.C. 20006

14 (202) 719-7416

15 BY: ERIC H. WEISBLATT, ESQ.

16

17 ALSO PRESENT:

18 TERRY CARRUTHERS, Legal Video Specialist

19 ALDERSON REPORTING

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2 Mr. Schweitzer contribute to those ideas?

3 A. At some point, we started getting more  
4 employees that joined the process, and the other --  
5 yeah, so ...

6 Q. Who was the first employee who joined  
7 the process?

8 A. I don't recall.

9 Q. Do you recall when it was the first  
10 employee joined?

11 A. I don't recall.

12 Q. In looking at the subject matter of the  
13 first claim of the '065 patent, and who contributed  
14 to that subject matter, does any name come to your  
15 mind other than you, Mr. Wagner and Mr. Schweitzer?

16 A. No.

17 Q. Would that be true of the other claims  
18 of the '065 patent?

19 A. I'll read them.

20 (Pause.)

21 A. I don't see here anything that was not  
22 conceived by the combination of Eran, Limor and  
23 myself.

24 Q. You mentioned that there was a flurry of  
25 activity in the summer of 1997, including meetings.

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2 Who was at those meetings?

3 A. Each meeting had different participants.

4 So, it might have been -- so, it might be Limor and  
5 myself, it might be Eran, Limor, and myself. It  
6 might be Eran and Limor. It might be one of the  
7 additional employees that were at the time.

8 Q. Do you recall the name of any of  
9 these -- and I want to -- I want to focus on this,  
10 what you recovered to as the flurry of activity in  
11 the summer of '97.

12 A. Yeah.

13 Q. Do you recall the names of any of those  
14 employees?

15 A. There was -- there -- three names come  
16 to mind. Yuval Tal --

17 Q. Can you --

18 A. -- Y-U-V-A-L, first name. Last name is  
19 T-A-L.

20 One of them is Eitan Elkin. That's  
21 E-I-T-A-N, space, last name is E-L-K-I-N.

22 And another one is Gil Shai. G-I-L,  
23 S-H-A-I or S-H-A-Y, I don't remember how he spells  
24 his last name.

25 So -- and they -- okay. Those are --  
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2 Q. Anyone else you can remember for --

3 A. Those are early -- the earliest  
4 employees, I believe.

5 Q. What was Mr. Tal's role in that -- in --  
6 in 1997?

7 A. Yuval, Mr. Tal, he consulted for Xpert  
8 Unix Systems, and he was involved in the development  
9 of XaCCT 2.0, and maybe -- and he worked with Xpert  
10 Unix Systems on various projects.

11 He was a soldier at the time, and he had  
12 some part-time -- only part-time ability to  
13 contribute.

14 Q. Was he a programmer? Was he --

15 A. He's a -- he's a whiz -- he's a -- he's  
16 developer, he's a whiz. He's a very strong  
17 developer.

18 Q. And Mr. Elkin, what was his --

19 A. He was a developer.

20 Q. Was he at Xpert Unix?

21 A. No, not to my knowledge.

22 Q. And Mr. Shai?

23 A. Mr. Shai, yeah, Gil Shai.

24 Q. Shai. Sorry.

25 A. He also was -- was a soldier that worked  
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2 actually under Yuval in the unit in the Army, and I  
3 think that's how we got to him.

4 Most of the role of Yuval -- most of the  
5 role of Gil and Eitan was really developing what we  
6 had designed.

7 Q. Was that -- when you say, "Developed  
8 what we had designed," was that -- the "We" in that  
9 sentence Mr. Schweitzer, Mr. Wagner and you?

10 A. Yes, mostly.

11 Q. Now, were there further iterations of  
12 the product that you've referred to as XaCCT 2.0.  
13 For example, was there an XaCCT 2.1?

14 A. Yes.

15 Q. Was there an XaCCT 2.2?

16 A. I don't believe so.

17 Q. Were there further subdivisions to XaCCT  
18 2.1? For example, was there an XaCCT 2.1.1, or some  
19 other --

20 A. I don't believe so.

21 Q. Okay.

22 Then was there an XaCCT 3.0?

23 A. Yes.

24 Q. Were there further iterations of the  
25 XaCCT 3.0 product?

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2 A. Yes.

3 Q. What were they referred to as?

4 A. There was -- these are versions I

5 remember: 3.1, 3.3, 3.3, 3.4, 4.0, 4.1, and so on.

6 And there's a 5 and 6, and we could go on, but at

7 least those versions, major versions.

8 Q. Now, when you -- when I look through the  
9 documents, I -- I start coming across the name of a  
10 product which is XaCCT, X-A-C-C-T, "usage" --

11 A. Yes.

12 Q. -- U-S-A-G-E.

13 Is that product related to any of the  
14 ones you just mentioned?

15 A. Yes. Actually, the numbers that -- that  
16 I just mentioned are not all branded "XaCCT." XaCCT  
17 was the name of XaCCT 2.0 and 2.1. I don't remember  
18 whether 3.0 was called XaCCT 3.0, but at some point  
19 in time we renamed the product itself to be  
20 XaCCT "usage," but the numbering scheme continued.

21 So, XaCCT, effectively -- XaCCT 3.0  
22 evolved into XaCCT "usage," and later, it evolved  
23 further.

24 Q. When XaCCT 3.0 evolved into XaCCT "usage"  
25 3.0 -- was it called XaCCT "usage" 3.0?

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2 A. There was never a time, to my knowledge,  
3 that they were called both one or -- both of them.  
4 I don't remember whether XaCCT 3.0 was the one that  
5 was called already XaCCT"usage" or whether it was  
6 XaCCT 3.4 or 3.3. I don't remember when we started  
7 calling it XaCCT"usage" exactly. But, at some  
8 point, there was XaCCT"usage."

9 So, there's not XaCCT 3.0 and an  
10 XaCCT"usage" 3.0. There's either XaCCT"usage" 3.0.  
11 or XaCCT 3.0.

12 Q. Do you recall the functional  
13 differences, if any, between XaCCT 3.0 and XaCCT  
14 2.1?

15 A. More or less.

16 Q. What were they?

17 A. XaCCT 3.0 was a complete rewrite -- not  
18 rewrite, it's actually a write -- a new -- a new  
19 project from scratch.

20 XaCCT 2.1 was a minor bug fix, minor  
21 feature capability improvement on 2.0 for customers  
22 that were using 2.0 and demanded it.

23 It was a distraction to some degree for  
24 the company, and it actually came after 3.0.

25 So, 3.0 development was what the company  
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2 was created to do. So, 3.0 is complete -- is  
3 writing from scratch different technologies, and  
4 they embodied a complete different architecture.  
5 It's a -- it's very different.

6 Q. Could XaCCT 2.0 collect usage data from  
7 Internet service providers?

8 A. Only from a Check Point FireWall-1.

9 Q. Could it collect the usage data for the  
10 large enterprises?

11 A. From the same -- only from that source.  
12 And, from that perspective, it was very  
13 limited. I mean, it -- it couldn't handle,  
14 actually, most of the problem domain.

15 Q. Because it couldn't handle the different  
16 sources that had proliferated?

17 A. Different sources, multiple sources,  
18 multiple instances of the source, more complex,  
19 sophisticated processing, and many, many more  
20 things.

21 Q. Now, in the activity that occurred in  
22 the summer of 1997, were there meeting minutes  
23 created?

24 A. Yes.

25 Q. Have you seen those meeting minutes  
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2 recently?

3 A. No.

4 Q. Do you know who was responsible for  
5 writing the minutes?

6 A. Me.

7 Oh, by the way, the "No," there is a --  
8 I did see some, but not necessarily that summer.

9 But I did see meeting minutes. I don't  
10 remember which though. So ...

11 Q. Well, I wanted to -- I wanted to focus  
12 on that -- on 1997.

13 A. I don't recall whether they were from  
14 that time or not.

15 I did see meeting minutes. I don't  
16 remember from which meetings and from which times.

17 Q. Did you keep, whether electronically or  
18 paper copies, of the minutes yourself?

19 A. Yes.

20 Q. Were they stored in a particular file?

21 A. I don't understand the question.

22 Q. If you wanted to find the meeting  
23 minutes from 1997 today --

24 A. Yes.

25 Q. -- Mr. Givoly, where would you look?  
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2 A. Where would I look?

3 I don't know.

4 Q. Is there an archive of documents that  
5 were created while XACCT was in existence?

6 A. Yes.

7 Q. Do you know if it goes back to the  
8 summer of 1997?

9 A. Yes.

10 Q. So, it does go back to the summer --

11 A. Yes.

12 Q. -- of '97?

13 Who is the custodian of that archive, do  
14 you know?

15 A. I held onto some of the documents. Not  
16 all documents made it into what was still in my  
17 possession.

18 Q. Do you know whether any of the other  
19 people who participated in those meetings in 1997,  
20 whether they also kept personal copies of the  
21 minutes?

22 A. I highly doubt it. I don't think so.

23 I don't know, though.

24 Q. For this litigation, Mr. Givoly, did you  
25 turn all of those minutes over to the lawyers to be

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2 produced?

3 A. The minutes are lost. The minutes, we  
4 don't know where they are. Okay?

5 The documents that were generated as a  
6 result of this minutes, were certainly -- all  
7 documents that existed were turned over. I put  
8 everything, every document that I have, on a server  
9 that was -- that was made accessible to counsel.

10 Q. And if you had copies of these minutes,  
11 it would have been put on that server?

12 A. Yes.

13 Q. Do you recall seeing copies of those  
14 minutes when you were doing this?

15 MR. LIPPERT: Are you talking about the  
16 1997 --

17 MR. WEISBLATT: Yes --

18 MR. LIPPERT: -- or minutes period.

19 MR. WEISBLATT: -- in -- in particular,  
20 the 1997 minutes.

21 A. I don't recall whether they were --  
22 whether I found any of those.

23 Q. Was there any other computer file or  
24 paper file that you didn't look through that might  
25 have these minutes in them?

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2 A. Not that I'm aware of.

3 Q. Do you know the reason why the XaCCT 2.0  
4 and 2.1 products were limited to the Check Point  
5 Firewall product?

6 A. The -- could you rephrase or -- let  
7 me -- could you explain the question again?

8 Q. Sure. Sure.

9 You had mentioned, I believe, that one  
10 of the weaknesses of the XaCCT 2.0 product and the  
11 end of 2.1 product was that it was --

12 A. I didn't say the 2.1.

13 Q. Okay. So, let's start with 2.0.

14 2.0 product was limited to use alongside  
15 of the Check Point source?

16 A. Yes.

17 Q. Okay.

18 Do you know why 2.0 was limited to the  
19 Check Point source?

20 A. No.

21 Q. Did there come a time where the number  
22 of sources for the 2.0 product, there was a desire  
23 to expand it past the Check Point?

24 A. Yes.

25 Q. Was that what resulted in the 2.1  
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2 product?

3 A. It more from -- more, it actually  
4 created the company XACCT than the -- than the 2.1  
5 product. So, the company XACCT in the 3.0 version  
6 are more of a result of the feedback and the uptake  
7 of 2.0.

8 2.1 is a -- is just a consequence of  
9 needing to support 2.0 customers.

10 Q. Was the consequence of supporting 2.0  
11 customers meaning expanding the sources that the  
12 program could --

13 A. I believe so.

14 Q. Do you recall what other -- what other  
15 sources were useful with 2.1 other than Check Point?

16 A. Yes.

17 Q. What were they?

18 A. Proxy log.

19 Q. P-R-O-X-Y-L-O-G?

20 A. Yeah.

21 Q. One word?

22 A. Proxy is one word, log is another.

23 Q. Okay.

24 Is that a name of a company?

25 A. No.

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2 Q. Okay.

3 What's the company that made proxy log?

4 A. Many companies make proxy -- make --  
5 make proxies, web proxies.

6 Web proxies produce proxy logs. And  
7 proxy logs have a particular format were readable by  
8 2.1.

9 Q. Was there any other expansion other than  
10 into the proxy logs?

11 A. I think so.

12 Q. What other sources were expanded in 2.1?

13 A. Oh, no, no. I don't -- I didn't say  
14 that.

15 Q. Okay.

16 What -- what did you mean by when you  
17 said, "Yes" to my question then?

18 A. Other capabilities were added to 2.1.

19 Q. Okay.

20 What capabilities were added to 2.1?

21 A. I don't recall.

22 Q. Who would be most knowledgeable about  
23 XaCCT 2.1?

24 A. Udi Hershkovich.

25 Q. Anyone else who would be knowledgeable  
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2 about 2.1?

3 A. Maybe. I think Udi would be, but it  
4 could also Eran or Limor might know something about  
5 it.

6 Q. Mr. Schweitzer and Mr. Wagner?

7 A. Yes.

8 Q. Did the effort to permit the XaCCT 2.0  
9 product to be expanded to proxy log, did that  
10 involve the writing of additional software?

11 A. Yes.

12 Q. Okay.

13 You called it a "Distraction," 2.1 a  
14 "Distraction."

15 Was the distraction that some of the  
16 development work at XACCT, instead of being devoted  
17 to 3.0, had to be devoted to this software rewrite  
18 for 2. 1?

19 A. Not exactly.

20 Q. Okay.

21 What was -- why did you think 2.1 was a  
22 distraction then?

23 A. The main thrust of the activities, I  
24 would say, 90 plus percent of the effort was devoted  
25 to 3.0.

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2 We released the 2.1 version in order to  
3 support customer requests for capabilities in -- in  
4 the product that they've already purchased, for  
5 instance. But we used very, very little effort to  
6 do that.

7 Q. Was part of the impetus to create 3.0  
8 the idea of broadening the number of sources --

9 A. Yes.

10 Q. -- that could be accessed?

11 Was that the main goal of 3.0, would you  
12 say?

13 A. That's one of them.

14 Q. Okay.

15 What would be some other main goals of  
16 3.0, as opposed to 2.0 or 2.1?

17 A. Making the ability to correlate with  
18 multiple sources, correlation of data in realtime  
19 with multiple sources, running on multiple -- more  
20 platforms, having a more scalable solution that  
21 would scale to support larger networks, and any  
22 number of devices and sources and correlation  
23 sources and processing, and so on.

24 Q. You mentioned one of them was the  
25 idea -- I believe it was realtime?

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2 the time period between the day of -- that you  
3 selected as conception, July 30th, 1997, and the  
4 filing date of that provisional application,  
5 November 20th, 1997.

6 At that -- between those two dates, was  
7 any software created that was capable of performing  
8 the methods claimed in the '065 patent?

9 A. Software was created, but it was not  
10 finished.

11 Q. If you look at the claims of the '065  
12 patent, Mr. Givoly, could the software -- was the --  
13 had the software been created -- had software been  
14 created between July 30th and November 20th 1997  
15 that could function in accordance with the claims of  
16 the '065 patent?

17 A. I don't know.

18 Q. Okay.

19 Some of the claims are directed to a  
20 computer program product.

21 Between July 30th and November 20th, had  
22 there been created a computer program product that  
23 could perform in accordance with those claims?

24 A. The product was not complete. It -- it  
25 was not complete in 1997. So, as far as I could  
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2 tell, it can't -- it couldn't have been completely  
3 functional in November of 1997.

4 Q. But even though it was not fully  
5 functional for a commercial product, or hadn't been,  
6 as you call it, completed, between those two dates,  
7 July 30th and November 20th, did you have a computer  
8 program product that would function in accordance  
9 with the claims of the '065 patent?

10 A. I don't know exactly when.

11 Any capability specific would have  
12 been -- this is, again, 13 years ago. I don't  
13 remember exactly when every little piece of software  
14 was operational. But I could say that, just in  
15 general, getting it all together was probably  
16 something that happened towards the end of the  
17 development of it rather than the intermediary.

18 Q. You see, that's -- that's one of the  
19 issues that I have, getting it all together in terms  
20 of a commercial product, in terms of something  
21 you're happy with that you could call complete, I  
22 want to put those aside now and just direct yourself  
23 to the claimed inventions.

24 A. Yeah, we would want to get this product  
25 out as soon as possible.

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2 VIDEOGRAPHER: This is the end of Tape  
3 No. 5.

4 The time is 4:35.

5 We're going off the record.

6 (Recess.)

7 VIDEOGRAPHER: The time is 4:53.

8 We're back on the record.

9 This is Tape No. 6.

10 MR. WEISBLATT: I'd like to mark as the  
11 next exhibit a document bearing production  
12 numbers 6090 through 6097.

13 (Exhibit Givoly 14, a document bearing  
14 production numbers 6090 through 6097, was  
15 marked for identification at this time.)

16 BY MR. WEISBLATT:

17 Q. Mr. Givoly, I've marked a version of the  
18 XaCCT 3.0 vision statement dated June 23rd, 1997.  
19 And if you go to the second page -- and I believe  
20 that they're all double-sided copied -- those are  
21 the -- that's your signature that you wrote it?

22 A. Yes.

23 Q. And do you recognize the signatures of  
24 Mr. Schweitzer and Mr. Wagner?

25 A. Yes. I -- I had them sign it.  
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2 Q. Was this one of the documents that  
3 AMDOCS relied on in determining a conception date  
4 for the '065 patent of July 30th 1997?

5 A. It's one of the set.

6 Q. Okay.

7 If you go to the Page 6094.

8 Now, this document is a vision  
9 statement.

10 Is it designed to memorialize what you  
11 wanted XaCCT 3.0 to do?

12 A. Some of it.

13 But, again, in a very course-grain,  
14 high-level passion. It's a short document.

15 Q. And if we look at 2.2, you wrote that  
16 "XaCCT 3.0 should maintain all the functionality of  
17 XaCCT 2.0, plus that of all specialized versions of  
18 XaCCT 2.0, plus the functionality of XaCCT 2.1."

19 Do you see that?

20 A. Yep.

21 Q. What were the specialized versions of  
22 2.0?

23 A. I seem to recall that there were some  
24 customers for which there were customizations, or  
25 changes, versus the core 2.0 capabilities.

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2 for and buy?

3 A. First of all, I didn't know that this is  
4 a PR from XACCT. Okay? But it is a report about  
5 XaCCT. That's one thing.

6 The other thing is we would love people  
7 to come and try to buy the product from us. So, if  
8 this creates a demand for the product, that would be  
9 great.

10 The sales cycle typically is very long  
11 for the product. And, again, I -- I don't -- this  
12 says that it was released, it could be accurate, I  
13 just don't know.

14 Q. Okay.

15 MR. WEISBLATT: Let's mark as the next  
16 document Exhibit 18, document bearing  
17 production numbers 7098 to 7100.

18 (Exhibit Givoly 18, a document bearing  
19 production numbers 7098 to 7100, was marked  
20 for identification at this time.)

21 Q. This is a news release from XACCT, and  
22 it's dated March 19th, 1998, which is about halfway  
23 down on the first page. And it mentions a  
24 conference called CeBIT, C -- capital C, lower case  
25 E, capital B, capital I, capital T.

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2 Do you know what that is?

3 A. Yes.

4 Q. That's a trade show held every year in  
5 Hanover?

6 A. Yes.

7 At least at the time it was. I'm not  
8 sure right now it continues.

9 Q. Okay.

10 And March 19th, 1998, XACCT announced it  
11 was shipping XaCCT 2.1?

12 A. Yes.

13 Q. Okay.

14 And that you would be demonstrating the  
15 upcoming version of XaCCT 3.0?

16 A. Where is that?

17 Q. That's the second paragraph after --  
18 under Hanover. There's a single line.

19 A. Yes.

20 Q. Okay.

21 Do you know what was demonstrated at the  
22 1998 CeBIT conference by XACCT in terms of its 3.0  
23 product?

24 A. I'm -- I think -- I think I do.

25 Q. What -- what was it?

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2 A. I think it was a user interface  
3 prototype that I had created.

4 So, it's not the 3.0 product, but it's a  
5 user interface mockup that I had whipped up.

6 Q. Have you seen any documents that reflect  
7 what was going to be -- or what was demonstrated at  
8 that 1998 trade show?

9 A. I don't recall.

10 Q. Okay.

11 And if you go to the next page, 7099, it  
12 says, "XaCCT 2.1" -- I'm looking at the very  
13 bottom -- "Is available directly from XACCT  
14 Technologies Limited and its distributors."

15 A. And it's subsidiaries.

16 Where is that that you're saying?

17 Q. It's about -- it's just about an inch up  
18 from the bottom.

19 A. Where is that?

20 Q. On the second page. It's double-sided  
21 again, I'm sorry.

22 A. Sorry.

23 Q. It says, "XACCT 2.1 is available  
24 directly from XACCT Technologies" --

25 A. Yes.

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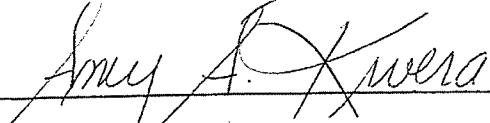
February 10, 2011

1 CERTIFICATE

2 I, AMY A. RIVERA, a Certified  
3 Shorthand, Registered Professional Reporter, Certified  
4 LiveNote Reporter, and Notary Public of the State of  
5 New York, do hereby certify that prior to the  
6 commencement of the examination TAL GIVOLY, was duly  
7 sworn by me to testify the truth, the whole truth and  
8 nothing but the truth.

9 I DO FURTHER CERTIFY that the foregoing  
10 is a true and accurate transcript of the testimony as  
11 taken stenographically by and before me at the time,  
12 place and on the date hereinbefore set forth.

13 I DO FURTHER CERTIFY that I am neither  
14 a relative nor employee nor attorney nor counsel of  
15 any of the parties to this action, and that I am  
16 neither a relative nor employee of such attorney or  
17 counsel, and that I am not financially interested in  
18 the action.

19   
20 \_\_\_\_\_

21 Notary Public of the State of New York

22 My commission expires August 28, 2014

23 License No. XI00939

24 Dated: February 10, 2011

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16                  BY:    ERIC H. WEISBLATT, ESQ.

17

18

19

20    ALSO PRESENT:

21                  TERRY CARRUTHERS, Legal Video Specialist

22                  Alderson Reporting

23

24

25

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2 Q. Did you tell anyone that you felt you  
3 should be an inventor on that application?

4 A. I might have. I don't recall.

5 Q. Do you recall being involved in changing  
6 the inventorship of that application?

7           A.     I recall that there was a process, that  
8     there was filing and that there was a change in  
9     order to include me as an inventor.

10 Q. In pursuing the change in inventorship,  
11 sir, did you create any writing to document what  
12 contribution you made to the subject matter of the  
13 claims of the '984 patent?

14 A. I don't recall.

15 Q. Do you know whether anyone created a  
16 memorandum or a document that described your  
17 contribution to the concept of the claims of the  
18 '984 patent that would require you to be added as  
19 an inventor?

20 A. I don't recall.

21 All of this would have probably been 13  
22 years ago, so...

23 Q. Now, I've also shown you or given you a  
24 copy of the supplemental augmented initial  
25 disclosures of AMDOCS. I believe it's exhibit --

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1 T. Givoly

2 we marked it as Exhibit 10 before.

3 A. Yes.

4 Q. And if you go to the second page of that  
5 document, you can see that the date of conception  
6 for Claims 1 through 14 is asserted to be  
7 July 30th, 1997.

8 Do you see that?

9 A. Yes.

10 Q. Now, I had asked you before how that  
11 date was arrived at.

12 Do you recall, sir?

13 A. Yes.

14 Q. Do you know how that date was arrived  
15 at?

16           A.     I believe it was when the, more or less  
17     last of the series of documents that were produced  
18     in the June-July time frame -- the bulk of those  
19     was complete.

20 Q. We -- as representatives of Openet, we  
21 were served a letter, yesterday I believe, that  
22 listed the documents that pertained to conception  
23 of the patents-in-suit, including the '984 patent.

24 Did you have any hand in writing that  
25 letter, Mr. Givoly?

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1 T. Givoly

2 A. Not that I recall.

3 Q. Okay.

4 MR. WEISBLATT: What exhibit are we up  
5 to?

6 THE COURT REPORTER: 60.

7 MR. WEISBLATT: 60. All right.

8 I want to make sure I have in the record  
9 the group of documents that we were -- that  
10 were described to counsel for Openet. So I  
11 want to mark in succession that group of the  
12 XaCCT 3.0 documents that were specified in  
13 the letter.

14 The first one, which would be  
15 Exhibit 60, is document 5869 to 5874.

16 (Whereupon, document  
17 Bates-stamped 5869 to 5874,  
18 was marked as Givoly Exhibit  
19 60 for identification, as of  
20 this date.)

21 MR. WEISBLATT: 61 would be document  
22 5906 through 5912.

23 (Whereupon, document  
24 Bates-stamped 5906 through  
25 5912, was marked as Givoly

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1 T. Givoly  
2 Exhibit 61 for identification,  
3 as of this date.)  
4  
5 MR. WEISBLATT: 62 would be document  
6 5875 through 5904.  
7 (Whereupon, document  
8 Bates-stamped 5875 through  
9 5904, was marked as Givoly  
0 Exhibit 62 for identification,  
1 as of this date.)  
2  
3 MR. WEISBLATT: 63 would be document  
4 5943 through 5966.  
5 (Whereupon, document  
6 Bates-stamped 5943 through  
7 5966, was marked as Givoly  
8 Exhibit 63 for identification,  
9 as of this date.)  
0  
1 BY MR. WEISBLATT:  
2  
3 Q. The next one I want to give you, sir,  
4 has already been marked as Exhibit 14 during your  
5 prior deposition.  
6 (Whereupon, XaCCT 3.0 Vision  
7 Statement, Bates-stamped 6090  
8 through 6097, was previously

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1 T. Givoly  
2 marked as Givoly Exhibit 14  
3 for identification, as of this  
4 date.)  
5 MR. WEISBLATT: Exhibit 64 is document  
6 Bates number 4896 through 5003.  
7 (Whereupon, document  
8 Bates-stamped 4896 through  
9 5003, was marked as Givoly  
10 Exhibit 64 for identification,  
11 as of this date.)  
12 MR. WEISBLATT: Exhibit 65 is 341852  
13 through 341860.  
14 (Whereupon, document  
15 Bates-stamped 341852 through  
16 341860, was marked as Givoly  
17 Exhibit 65 for identification,  
18 as of this date.)  
19 MR. WEISBLATT: 66 is Bates number 6000  
20 through Bates number 6012.  
21 (Whereupon, document  
22 Bates-stamped 6000 through  
23 6012, was marked as Givoly  
24 Exhibit 66 for identification,  
25 as of this date.)

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1 T. Givoly  
2 MR. WEISBLATT: 67 is Bates number 6217  
3 through 6231.  
4 (Whereupon, document  
5 Bates-stamped 6217 through  
6 6231, was marked as Givoly  
7 Exhibit 67 for identification,  
8 as of this date.)  
9 MR. WEISBLATT: 68 is 6139 through 6160.  
0 (Whereupon, document  
1 Bates-stamped 6139 through  
2 6160, was marked as Givoly  
3 Exhibit 68 for identification,  
4 as of this date.)  
5 MR. WEISBLATT: 69 is 5913 through 5940.  
6 (Whereupon, document  
7 Bates-stamped 5913 through  
8 5940, was marked as Givoly  
9 Exhibit 69 for identification,  
0 as of this date.)  
1 MR. WEISBLATT: 70 is 342230 through  
2 342237.  
3 (Whereupon, document  
4 Bates-stamped 342230 through  
5 342237, was marked as Givoly

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1 T. Givoly  
2 Exhibit 70 for identification,  
3 as of this date.)

4 MR. WEISBLATT: 71 is 6100 through 6109.  
5 (Whereupon, document  
6 Bates-stamped 6100 through  
7 6109, was marked as Givoly  
8 Exhibit 71 for identification,  
9 as of this date.)

10 MR. WEISBLATT: 71 is 6072 --

11 THE COURT REPORTER: I think that's 72.

12 MR. LIPPERT: The previous one was 71.

13 MR. WEISBLATT: Ah, thank you.

14 72 is 6076 through 6088.

15 (Whereupon, document  
16 Bates-stamped 6076 through  
17 6088, was marked as Givoly  
18 Exhibit 72 for identification,  
19 as of this date.)

20 MR. WEISBLATT: 73 is 342125 through  
21 342136.

22 (Whereupon, document  
23 Bates-stamped 342125 through  
24 342136, was marked as Givoly  
25 Exhibit 73 for identification,

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1 T. Givoly

2 as of this date.)

3 MR. WEISBLATT: And 74 is 6057 through  
4 6075.

5 (Whereupon, document  
6 Bates-stamped 6057 through  
7 6075, was marked as Givoly  
8 Exhibit 74 for identification,  
9 as of this date.)

10 BY MR. WEISBLATT:

11 Q. Now, Mr. Givoly, I have given them to  
12 you -- I happen to put them in order of the dates  
13 that I found on the first page. And indeed, the  
14 date of the last one is July 30th, 1997,  
15 Exhibit 74.

16 A. Yes.

17 Q. And because that is the date of the last  
18 of these documents, is that how the conception  
19 date of July 30th, 1997 was derived?

20 A. I believe so.

21 Q. Mr. Givoly, did you go through the  
22 documents 60 through 74 and determine which parts  
23 of the conception of the subject matter of the  
24 claims of the '984 patent were disclosed in each  
25 individual document?

1

C E R T I F I C A T E

2

STATE OF NEW YORK )  
 )\$.:  
3 COUNTY OF NEW YORK )

4

5 I, LINDA D. DANELCZYK, a Registered  
6 Professional Reporter, Certified Court Reporter,  
7 and Notary Public within and for the States of New  
8 York and New Jersey, do hereby certify:

9

10 I reported the proceedings in the  
within entitled matter, and that the within  
transcript is a true record of such proceedings.

11

12 I further certify that I am not  
13 related, by blood or marriage, to any of the  
parties in this matter and that I am in no way  
14 interested in the outcome of this matter.

15

16 IN WITNESS WHEREOF, I have hereunto  
set my hand this 15th day of March, 2011.

17

18



19 LINDA D. DANELCZYK, RPR, CCR

20

License No. 30X100188700 - N.J.

21

My Commission Expires:

22

11/24/2013 - No. 2046964

23

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24

My Commission Expires:

25

9/20/2014 - No. 01DA4952883